

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

RETAIL ACCESS OPTIMIZATION INITIATIVE

Docket No. N2011-1

**MOTION OF THE UNITED STATES POSTAL SERVICE FOR CHANGE IN
HEARING DATE**
(September 30, 2011)

The Postal Service respectfully moves for a change in the hearing date for receipt of rebuttal testimony and oral cross-examination of rebuttal witnesses. Presiding Officer's Ruling No. (POR) N2011-1/14 (September 14, 2011) set the date for receipt of rebuttal testimony on Monday, September 26, 2011, and the date for the conclusion of written cross-examination one week later on Monday, October 3, 2011. That Ruling was based, in part, on the need for participants to receive and have an opportunity to review responses to questions before having to file written testimony. *Id.* at 2.

Under the accelerated procedures for the receipt of responses to written cross-examination employed in this docket, written discovery propounded on October 3, 2011, would be due on Tuesday, October 11 (because Monday, October 10 is a federal holiday). For reasons that parallel schedule changes effectuated by POR N2011-1/14, the Postal Service now requests that the hearing date be moved to Thursday, October 13, 2011, with no other adjustments in the procedural schedule.

While the schedule has been available for approximately two weeks, circumstances now illustrate that the schedule is not, in fact, actually workable. The current context involves filing by seven participants of 10 distinct written testimonies by the September 26, 2011 deadline. Postal Service counsel and experts committed to this proceeding are working with exhausting vigor diligently to prepare written and likely eventual oral cross-examination. Given the complexity of the analyses presented in some testimony, the Postal Service expects that it will be unable to conclude propounding all written cross-examination by the close of today's daily listing. Hence the Postal Service expects to file substantial written discovery on October 3.

This means answers to sometimes complex questions about complex testimony propounded on October 3 would be filed only eight days later on October 11. Counsel interested in following upon those written responses—whether in writing (Rule 26(a), 39 C.F.R. Pt. 3001.26(a)) or orally (Rule 30(e)(3), 39 C.F.R. Pt. 3001.30(e)(3)), must be given the opportunity to review those responses and plan their follow-up. Oral cross-examination based on the current schedule would accordingly not be able to address responses filed within the period of time now allowed, thereby frustrating the specific purpose of oral cross-examination: following-up on answers to written cross (Rule 26(a)).

By postponing the date for the hearing by two business days, responses to written discovery filed on October 3 may be received on October 11, and preparation for oral cross-examination could then be undertaken within a single day, October 12, in time for a hearing commencing on October 13. This proposal

would thereby enable some opportunity for the Postal Service to elicit information at the hearing that would be of benefit to the Commission and the development of a complete administrative record. Changing the schedule as proposed here would also tend to diminish the necessity of relying upon written follow up questions.

The Postal Service will send a copy of this pleading to counsel for other participants and attempt to make further accommodations should October 13, 2011 not be convenient for them or their witnesses. The Postal Service also has no objection to the National League of Postmasters *Motion to Reschedule Entry of Rebuttal Testimony of League Witness Donald Hobbs into the Record* (September 29, 2011), as long as the no significant additional changes in the procedural schedule ensue.

The Postal Service further requests that counsel accommodate strains in the schedule by filing responses to written discovery filed on October 3 early. Further, such cooperation will facilitate processing of notices of intent to conduct oral cross-examination and designations of responses into the evidentiary record and accordingly facilitate the Commission's docket section in preparing for hearings. Cooperation may also enable Postal Service decisions to forgo the need for oral cross-examination and all the burdens entailed in hearings.

WHEREFORE, the Postal Service moves that the date for the October 11, 2011 hearing for receipt of rebuttal testimony be moved to October 13, with no other changes in the procedural schedule.

Respectfully submitted,

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